

DEPARTMENT OF STATE REVENUE

04-20190370R.MOD

**Memorandum of Decision: 04-20190370R
Individual Income Tax
For Tax Year 2017**

NOTICE: IC § 4-22-7-7 permits the publication of this document in the Indiana Register. The publication of this document provides the general public with information about the Indiana Department of Revenue's official position concerning a specific set of facts and issues. The "Holding" section is provided for the convenience of the reader and is not part of the analysis contained in this document.

HOLDING

Individual provided sufficient document to show he was entitled to his refund request of \$439.69.

ISSUE

I. Sales Tax - Statute of Limitations.

Authority: IC § 6-8.1-9-1; IC § 6-2.5-2-1; *Dept. of State Revenue v. Caterpillar, Inc.*, 15 N.E.3d 579 (Ind. 2014).

Taxpayer protests the denial of his claim for refund.

STATEMENT OF FACTS

Taxpayer purchased a vehicle in Indiana and paid sales tax at the time of the transaction. Taxpayer subsequently returned the vehicle, and subsequently requested a refund of sales tax from the Indiana Department of Revenue ("Department"). The Indiana Department of Revenue ("Department") denied the refund claim claiming that Taxpayer failed to send in supporting documents. Taxpayer protested the refund denial and requested a hearing. This Memorandum of Decision results. Additional facts will be provided as necessary.

I. Sales Tax - Statute of Limitations.

DISCUSSION

Taxpayer protest the Department's refund denial. Taxpayer submitted a refund request for sales tax paid on a vehicle that he subsequently returned after it failed to meet Taxpayer's standards. The Department denied Taxpayer's refund request by stating, "Failure to send in supporting documents. Please send in Documentation that the [vehicle] was returned and money refunded minus the sales tax." Taxpayer protested the denial.

The Department initially notes that, "[W]hen [courts] examine a statute that an agency is 'charged with enforcing. . . [courts] defer to the agency's reasonable interpretation of [the] statute even over an equally reasonable interpretation by another party.'" *Dept. of State Revenue v. Caterpillar, Inc.*, 15 N.E.3d 579, 583 (Ind. 2014). Thus, all interpretations of Indiana tax law contained within this decision, as well as all the Department's previous decisions, shall be entitled to deference.

The issue raised by Taxpayer is addressed at IC § 6-8.1-9-1(a) which states in relevant part:

If a person has paid more tax than the person determines is legally due for a particular taxable period, the person may file a claim for a refund with the department [I]n order to obtain the refund, the person must file the claim with the department within three (3) years after the later of the following:

- (1) The due date of the return.
- (2) The date of payment.

For purposes of this section, the due date for a return filed for the state gross retail or use tax, the gasoline tax, the special fuel tax, the motor carrier fuel tax, the oil inspection fee, or the petroleum severance tax is the end of the calendar year which contains the taxable period for which the return is filed. The claim must set forth the amount of the refund to which the person is entitled and the reasons that the person is entitled to the refund.

In his protest, Taxpayer provided the Bill of Sale when he bought the truck and the Retail Buyer Order, the documentation for returned vehicle. The documents show that Taxpayer received his money back from the dealer

less the sales tax. In addition, Taxpayer provided the check from the dealer that shows the dealer did in fact return Taxpayer's money less the sales tax. The sale upon which sales tax was due under IC § 6-2.5-2-1 was undone. Thus, Taxpayer showed that he is entitled to his refund claim, by meeting the requirements of IC § 68.1-9-1(a).

FINDING

Taxpayer's protest of the refund denial by the Department is sustained.

May 25, 2019

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